IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 864 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANIBEN RATILAL MEVAWALA

Versus

STATE OF GUJ

Appearance:

1. Special Civil Application No. 864 of 1991
   MS ROOPAL R PATEL for Petitioner No. 1
   MS VASUBEN P SHAH for Petitioner No. 1,2-12
   ..... for Respondent No. 1-2
2. Special Civil Application No. 4227 of 1990
   MR GM JOSHI for Petitioner No. 1
   ..... for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 06/08/2004

ORAL JUDGEMENT

With the consent of the parties, the matter is taken up for final hearing today.

2. In this petition under Article 226 of the Constitution of India, the petitioners have challenged the legality and validity of the order passed by the State Government dated 26.2.1990 in quashing and setting aside the nonagricultural use permission granted by the Taluka Development Officer, Mangrol dated 3.11.1982 in exercise of suo motu revisional powers.

3. Ms.Rupal Patel, Learned Advocate appearing on behalf of the petitioners has submitted that the order passed by the Taluka Development Officer, Mangrol granting nonagricultural use permission came to be cancelled by the State Government in exercise of suo motu revisional powers after a period of six years. She has submitted that other persons in whose favour the nonagricultural use permission was granted by the Taluka Development Officer, Mangrol and the same came to be cancelled by the State Government had preferred Special Civil Application Nos.4227 of 1990 to 4230 of 1990 and this Court (Coram: Ms.R.M.Doshit, J) by her judgment and order dated 31.1.2002 had allowed the aforesaid Special Civil Applications by quashing and setting aside the order passed by the State Government in cancelling the nonagricultural use permission granted by the Taluka Development Officer, Mangrol. She has further submitted that in fact, the present Special Civil Application was ordered to be heard along with SCA No.4227 of 1990 but for some reasons, the present Special Civil Application could not be listed with SCA No.4227 of 1990 and could not be heard. Therefore, considering the judgment and order passed by this Court in the aforesaid Special Civil Application requested to allow the present Special Civil Application by quashing and setting aside the order passed by the State Government.

4. Shri Kunjal Pandya, Learned AGP appearing for the State Government has also submitted that the facts of the present case are identical to that of SCA No.4227 of 1990 and other allied matters and the present Special Civil Application is also covered by the judgment and order passed by this Court in the aforesaid Special Civil Application.

5. In view of the aforesaid facts and circumstances and considering the judgement and order passed by this Court (Coram: Ms.R.M.Doshit, J) dated 31.1.2002 passed in SCA Nos.4227 of 1990 to 4230 of 1990 and the reasons

mentioned therein, the present petition is allowed. The order passed by the State Government dated 26.2.1990 passed in Suo Motu Case No.7 of 1988 in cancelling the nonagricultural use permission granted by the Taluka Development Officer, Mangrol dated 3.11.1982 is quashed and set aside. The order passed by the Taluka Development Officer, Mangrol dated 3.11.1982 granted nonagricultural use permission in favour of the petitioner is hereby restored. Rule is made absolute to the aforesaid extent. A copy of the judgement passed in SCA Nos.4227 of 1990 to 4230 of 1990 to be kept on the record of this petition.

(M.R.Shah, J)

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